

Serial No.: 10/379,164
Group Art Unit No.: 1648

REMARKS

Status of Claims

Claims 21-41 are pending. Claims 21-36, 40 and 41 have been rejected while Claims 37 and 38 have been objected to. Claims 28-30, 40 and 41 have been canceled.

Amendments

Claims 21, 32, and 37 have been amended. Claim 21 has been amended to limit the claim to a method for transferring DNA or RNA or modification thereof into a eukaryotic cell only. Basis for the word “modification” can be found in the specification, page 8, lines. Claim 32 has been amended to narrow the scope of R₁ and R₂ so that only one of R₁ and R₂ can be a C₍₁₋₂₄₎ alkylcarboxy group. Since the amendment is merely reducing the size of a Markush group, no further basis is required for this claim. Claim 37 has been amended to correct a grammatical error.

Defective Oath/Declaration

The Examiner has found the oath/declaration to be defective and has required a new oath/declaration in compliance with 37 CFR 1.67(a) to be submitted. Applicants have not as yet obtained a new declaration from Applicant Matthew Leigh Fielden but are diligently pursuing this matter.

Response to Rejections under 35 USC §112, Second Paragraph

Claims 21-31 have been rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that applicants regard as their invention. More particularly, the Examiner objects to the phrase “analog thereof” because the metes and bounds of the invention are unclear inasmuch as it cannot be determined how close to the DNA or RNA an analog might be. Applicants have rendered this rejection moot by deleting the phrase “or analog thereof” in each occurrence.

Serial No.: 10/379,164
Group Art Unit No.: 1648

Claim 30 has also been rejected under 35 USC §112, second paragraph. Applicants have rendered this rejection moot by canceling the claim.

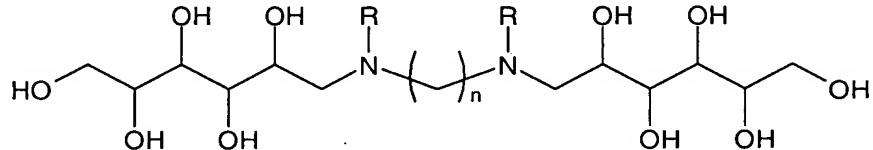
Response to Rejection under 35 USC §112, First Paragraph

Claims 21-27, 31 and 40 have been rejected under 35 USC §112, first paragraph, as failing to comply with the written description requirement. The Examiner asserts that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey the one skilled in the relevant art the inventors had possession of the invention at the time the application was filed. More specifically, the Examiner asserts that Applicants have not disclosed transfection of prokaryotes by any molecules related to formula (I). Applicants have rendered this rejection moot by removing reference to prokaryotic cells from Claims 21 and by canceling Claim 40.

Response to Rejection under 35 USC §102(b)

Claims 32-36 and 41 have been rejected under 35 USC §102(b) as being anticipated by Pestman et al (Langmuir, 1997). As amended, the claims overcome the Examiner's rejection.

Pestman et al. disclose a compound having the following structure:



where each R is $C(O)C_{13}H_{27}$.

Claim 32 and the claims depending therefrom overcome the rejection because, as amended, only one of R_1 and R_2 can be an alkylcarboxy group. These claims are, therefore, novel over the Pestman et al. publication, which requires that both R groups are a species of an alkylcarboxy group. The cancellation of Claim 41 renders its rejection moot.

For the above-stated reasons, Applicants respectfully request that a Notice of Allowance be granted for Claims 21-27 and 31-39.

Serial No.: 10/379,164
Group Art Unit No.: 1648

Authorization is hereby granted to charge any fees which may be required by this paper, or credit any overpayment, to Deposit Account No. 19-2570.

Respectfully submitted,



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